FILED
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WM. R. STANSBURY
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL JURISDICTION

OCTOBER TERM, 1925

No. 7

STATE OF WISCONSIN, STATE OF OHIO, STATE OF PENNSYLVANIA AND STATE OF MINNESOTA,

Complainants,

v.

STATE OF ILLINOIS AND SANITARY DISTRICT OF CHICAGO,

Defendants,

STATE OF MISSOURI, STATE OF TENNESSEE, STATE OF KENTUCKY AND STATE OF LOUISIANA,

Intervening Defendants.

MOTION FOR APPOINTMENT OF COMMISSIONER, WITH NOTICE, AND PROPOSED ORDER

HERMAN L. EKERN,
Attorney General, State of Wisconsin,

C. C. CRABBE,
Attorney General, State of Ohio,

GEORGE W. WOODRUFF,
Attorney General, State of Pennsylvania,

CLIFFORD L. HILTON,
Attorney General, State of Minnesota.

NEWTON D. BAKER,
R. T. JACKSON,
Special Counsel.

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL JURISDICTION

OCTOBER TERM, 1925

No. 16

STATE OF WISCONSIN, STATE OF OHIO, STATE OF PENNSYLVANIA AND STATE OF MINNESOTA,

Complainants,

v.

STATE OF ILLINOIS AND SANITARY DISTRICT OF CHICAGO,

Defendants,

STATE OF MISSOURI, STATE OF TENNESSEE, STATE OF KENTUCKY AND STATE OF LOUISIANA,

Intervening Defendants.

NOTICE

Sirs:

Please take notice that at the court room, in the Capitol, in the city of Washington, D. C., on the 24th day of May, 1926, at the opening of court on that day, or as soon thereafter as counsel can be heard, the motion, a copy of which is hereto annexed, will be presented to, and be brought on to be heard before said court.

You will further please take notice that hereto annexed is a copy of a proposed order to be entered herein pursuant to said motion.

HERMAN L. EKERN,
Attorney General, State of Wisconsin,

C. C. CRABBE,
Attorney General, State of Ohio,

GEORGE W. WOODRUFF,
Attorney General, State of Pennsylvania,

CLIFFORD L. HILTON,
Attorney General, State of Minnesota.

NEWTON D. BAKER,

R. T. JACKSON,
Special Counsel.

To:

Hector A. Brouillet,
Attorney, Sanitary District of Chicago,
George F. Barrett,
Edmond D. Adcock,
Louis J. Behan,
Morton S. Cressy,
Solicitors for Defendant, Sanitary District of Chicago,
James M. Beck,
Of Counsel,
Oscar E. Carlstrom,
Attorney General of Illinois,
John T. Kentworthy,
Cyrus E. Dietz,
Solicitors for Illinois,
Hugh S. Johnson,
Of Counsel,
North P. Gentry,
Attorney General of Missouri,
Frank M. Thompson,
Attorney General of Tennessee,
Frank E. Daugherty,
Attorney General of Kentucky,

Percy Saint,
Attorney General of Louisiana,
McKinney, Lynde and Grear,
Nagel and Kirby,
Solicitors,
Cornelius Lynde,
Daniel N. Kirby,
Of Counsel.

IN THE

Supreme Court of the United States

ORIGINAL JURISDICTION

OCTOBER TERM, 1925

STATE OF WISCONSIN, STATE OF OHIO, STATE OF PENNSYLVANIA AND STATE OF MINNESOTA, *Complainants,* *v.* STATE OF ILLINOIS AND SANITARY DISTRICT OF CHICAGO, *Defendants,* STATE OF MISSOURI, STATE OF TENNESSEE, STATE OF KENTUCKY AND STATE OF LOUISIANA, *Intervening Defendants.*	Bill in Equity Original Jurisdiction No. 16

MOTION

Come now the complainants, State of Wisconsin, by Herman L. Ekern, Attorney General, State of Minnesota by Clifford L. Hilton, Attorney General, State of Ohio by C. C. Crabbe, Attorney General, State of Pennsylvania by George W. Woodruff, Attorney General, and by Newton D. Baker and R. T. Jackson, Special Counsel for said states, and move the court for the appointment of some suitable person, qualified to take down in shorthand and transcribe testimony of witnesses or and statements of others, to be designated by the court, as a special commissioner of this court, to take the proofs to be offered by the respective parties herein, within such time respectively, as may be prescribed by the court, and at such place or places

as may be designated therefor, within these United States, on notice to be given by the respective parties thereto, as the court may prescribe, and with power, as such commissioner, to administer oaths to the witnesses so to be produced, to issue subpoenas for witnesses so to be produced and to compel witnesses so to be produced to testify by appropriate process, and that he report the proofs so by him taken under his oath, to this court, but without opinion thereon and without power to pass upon objections to evidence, with all convenient speed, and said commissioner shall have such powers as generally reside in a commissioner to take depositions.

Further, that the compensation of said commissioner shall be the usual compensation paid to court reporters in the city of Washington for the services that may be performed by the said commissioner in taking down in shorthand, transcribing testimony of witnesses or copying exhibits, and, in addition, the necessary traveling expenses of the commissioner.

The compensation of said commissioner shall be advanced to him from time to time by the parties on whose behalf evidence may be offered, including the taking down and transcribing of direct and cross-examination of witnesses offered. The amounts so advanced to the commissioner by the respective parties shall be treated as part of the costs in said cause, and may be taxed by the court against such of the parties as the court may determine.

There is pending before this court the case of *State of Michigan v. State of Illinois* and *Sanitary District,* Number 27, October Term, 1925, original in equity, which involves substantially similar subject matter and substantially similar questions, so that it is contemplated by counsel representing both the complainants and defendants here and the complainants and defendants in said Michigan case, that the two cases may be presented to the court upon one record, and may be heard by the court at the same time; that the testimony and evidence offered before the commissioner herein, so far as the same may be material and relevant to the issues in the said case of *State of Michigan v. Illinois and Sanitary District,* may be used and treated the same as if offered and presented before a commissioner duly appointed in said cause.

The defendant Sanitary District of Chicago has filed its answer in this cause. The defendants State of Illinois and States of Mis-

souri, Tennessee, Kentucky and Louisiana, will file their respective answers on or before May 31, 1926 ,and the complainants will thereafter immediately file replications thereto.

This motion is pursuant to the agreement of counsel representing all parties.

This motion is further based upon all the records, files and proceedings had herein.

The reasons for this motion and for the appointment of a commissioner with the powers and duties prescribed are:

1. Because the issues involved herein embrace a wide range of facts covering a long period of time, proof of which will involve the introduction of a large amount of documentary evidence and the examination of a large number of witnesses.

2. Because the issues are of such a nature and the matters involved are of such great public importance that it is proper that the proofs be examined by this court without the intervention of a commissioner's opinion thereon.

The draft of order of court pursuant to this motion is herewith presented.

HERMAN L. EKERN,
Attorney General, State of Wisconsin,

C. C. CRABBE,
Attorney General, State of Ohio,

GEORGE W. WOODRUFF,
Attorney General, State of Pennsylvania,

CLIFFORD L. HILTON,
Attorney General, State of Minnesota.

NEWTON D. BAKER,

R. T. JACKSON,
Special Counsel.

IN THE

Supreme Court of the United States

ORIGINAL JURISDICTION

OCTOBER TERM, 1925

STATE OF WISCONSIN, STATE OF OHIO, STATE OF PENNSYLVANIA AND STATE OF MINNESOTA, *Complainants,* *v.* STATE OF ILLINOIS AND SANITARY DISTRICT OF CHICAGO, *Defendants,* STATE OF MISSOURI, STATE OF TENNESSEE, STATE OF KENTUCKY AND STATE OF LOUISIANA, *Intervening Defendants.*	Bill in Equity Original Jurisdiction No. 16

ORDER

This cause coming on to be heard upon the motion of the complainants for the appointment of a special commissioner to take proofs in the said cause and the consent thereto by the defendants:

IT IS ORDERED:

(1) ..... of .....,
be and he is hereby appointed special commissioner of this court, to take the proofs to be offered by the respective parties to this cause, and to report the same to this court with all convenient speed, without conclusions or power to pass upon objections to evidence, and the powers of said commissioner shall be generally those resting in a commissioner to take depositions.

(2) The said commissioner may take such proofs at such convenient places as may seem necessary and proper, and the said commissioner shall give ten days' notice by United States mail to solicitors representing all parties, of the place where such proofs shall be offered and of the time when the presentation of such proofs will begin, at such place as may be designated; and the said commissioner shall have power to administer oaths to the respective witnesses to be produced before him, to issue subpoenas for the appearance of witnesses before him at such times or places as may be fixed for the presentation of proofs, and to take such steps as may be necessary to compel the presence of witnesses subpoenaed, and the giving of testimony by such witnesses so produced.

(3) The compensation of said commissioner shall be the usual compensation paid to court reporters in the city of Washington for the services that may be performed by the said commissioner in taking down in shorthand, transcribing testimony of witnesses or copying exhibits, and, in addition, the necessary traveling expenses of the commissioner.

The compensation of said commissioner shall be advanced to him from time to time by the parties on whose behalf evidence may be offered, including the taking down and transcribing of direct and cross-examination of witnesses offered. The amounts so advanced to the commissioner by the respective parties shall be treated as part of the costs in said cause, and may be taxed by the court against such of the parties as the court may determine.

(4) Leave is hereby granted the defendants State of Illinois, States of Missouri, Tennessee, Kentucky and Louisiana, to file, and they are hereby ordered and directed to file their respective answers to said bill of complaint on or before May 31, 1926. And leave is hereby granted complainants to file thereafter their replications to all answers filed herein.

(5) The proofs offered and testimony and evidence presented by the respective parties in this cause, may be used so far as such evidence and proofs may be material and relevant, in the case of *State of Michigan v. State of Illinois* and *Sanitary District of Chicago*, Number 27, October Term, 1925, Original in Equity, the same as if such evidence and proofs were presented and offered before a commissioner appointed in such case to take proofs and

report same to the court; and for such purposes the complainants and/or defendants in said case of *Michigan v. Illinois* and *Sanitary District of Chicago*, may present proofs in support of the issues in said cause before the commissioner herein, and such proof, or parts thereof, may be used by the respective parties herein so far as the same may be material and relevant.

....., 1926.

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Clerk of the Supreme Court of the United States.